IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

Writ Petition No. 985 (S/S) of 2006

Smt. Jitendra Kaur,
wife of late Sri Harjinder Singh,
aged about about 49 years,
R/o C – 173, Nehru Colony,
Dehradun. **…….Petitioner**

V e r s u s

1. State of Uttaranchal through Secretary, Food and Civil Supply, Dehradun.
2. Commissioner, Food and Civil Supply, State of Uttaranchal, Dehradun.

…..Respondents

Hon'ble M.M. Ghildiyal, J.

Heard Sri I.P. Kohli, learned counsel for the petitioner and learned standing counsel for the respondents.

By means of this writ petition, the petitioner has prayed for the following reliefs:

(a) issue a writ, order or direction in the nature of Certiorari quashing the order no. 211/Aa Kha/Stha/2006 dated 10.07.2006 passed by respondent no. 2 (Annexure No. 4) so far it relates to the petitioner.

(b) Issue a writ, or direction in the nature of Mandamus commanding the respondents to sympathetically dispose of the representation dated 17.07.2006 moved by the petitioner against the transfer from Dehradun to Tehri Garhwal.

(c) *Issue such other writ, order or direction, as is deemed proper under the facts and circumstance of the case.*

(d) *Award full cost of the petition.*

The submission of the petitioner is that husband of the petitioner was expired on 16.10.2005 and she has yet not recovered from this shock. Her daughter, who is a divorcee is also residing with her, is doing computer course at Dehradun. Apart from this, her son is also studying in Class 12 in Doon School, Dehradun.

The law of transfer has been settled down by the Apex Court in a catena of decisions. A person holding a transferable post cannot claim any vested right to work at a particular place as the transfer does not affect any of his legal rights and Court cannot interfere with a transfer order passed in public interest of administrative exigency. It is a normal incident of service, which, of course, should not be used arbitrary or *malafide* or infraction of any professed norm of principle governing the transfer. The transfer order can be interfered by the Courts only where it comes under the category of frequent transfer; for example, if a person has been transferred more than once within a short span of period because in that case a transfer of an employee is an abuse of power by the Government except in exceptional circumstances where the public interest warrants such transfers. If a transfer is made in mid session without there being any public interest, the Court can interfere. Similarly, where the transfer order has been passed mala-fide or the transfer order has been passed on

the dictate of some other official, without applying mind by the Competent Authority, the Court can interfere in such cases.

Learned counsel for the petitioner has submitted that the impugned order has been passed by the respondents in violation of Clause 11 (C) of the Transfer Policy dated 21.06.2006 issued by the State of Uttaranchal, itself.

Learned Standing Counsel has submitted that the Transfer Policy does not have statutory force. It is true that the Transfer Policy issued by the State Government does not have statutory force, but since the Transfer Policy have been issued by the State to be followed it is expected from the Govt. to follow the Transfer Policy.

Petitioner has already submitted representation to respondent no. 2 15.07.2006, which is annexure no. 5 to the writ petition. It is expected that respondent no. 2 shall take decision considering all these facts mentioned as above, and shall pass appropriate order within a period of one week from the date of production of certified copy of this order.

With these directions, the writ petition is finally disposed of. No order as to costs.

(M. M. Ghildiyal, J.)

July 19, 2006
SKSharma